

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3153
Administrative Law Judge Division
May 26, 2005

R E S O L U T I O N

RESOLUTION ALJ 176-3153. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 26, 2005, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3153 (5/26/05)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|---------------------|---------|
| A05-05-001 PACIFIC GAS AND ELECTRIC COMPANY, annual earnings assessment proceeding submitting annual reports on 2004 energy efficiency and low-income energy efficiency programs; reporting on measurement and evaluation result; and reporting on incremental costs for the interruptible load programs. | Ratesetting | Ratesetting | NO |
| A05-05-002 PACIFIC PIPELINE SYSTEM LLC, for authorization to increase rates by instituting a \$0.10 per Barrel temporary Surcharge on all through shipments of crude oil on its Line 63 System that have Receipt Points in the San Joaquin Valley and Delivery Points in the Los Angeles Basin in order to recover the cost of repairs and other expenses resulting from catastrophic events associated with the extraordinary wet Winter of 2004/2005 and request to put such Surcharge into effect on an expedited basis. | Ratesetting | Ratesetting | NO |
| A05-05-003 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), submitting Annual Reports on 2004 Energy Efficiency and Low Income Energy Efficiency Programs; Reporting on Measurement and Evaluation Results; and Reporting on Incremental Costs for the Demand Response Programs (Annual Earnings Assessment Proceedings "AEAP"). | Ratesetting | Ratesetting | NO |
| A05-05-004 SOUTHERN CALIFORNIA GAS COMPANY, submitting Annual Reports on 2004 Energy Efficiency and Low Income Energy Efficiency Programs; Reporting on Measurement and Evaluation Results; and Reporting on Incremental Costs for the Demand Response Programs (Annual Earnings Assessment Proceedings "AEAP"). | Ratesetting | Ratesetting | NO |
| A05-05-005 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for approval of Pre-1998 Demand-Side Management Earnings and in support of 2004 Energy Efficiency Program Performance Achievements. | Ratesetting | Ratesetting | NO |
| A05-05-006 PACIFIC GAS AND ELECTRIC COMPANY, for authority to establish its authorized rate of return on common equity for electric utility generation and distribution operations and gas distribution for test year 2006. | Ratesetting | Ratesetting | YES |

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3153 (5/26/05)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-----------------------------|----------------|
| A05-05-007 CLEARLINX NETWORK CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A05-05-008 SAN DIEGO GAS & ELECTRIC COMPANYBV, for approval pursuant to Public Utilities Code Section 851 to Lease a portion of its property at 10975 Technology Drive, San Diego, California to ADP Tax Services, Inc. | Ratesetting | Ratesetting | NO |
| A05-05-010 CITY OF MORRO BAY, for Rehearing of Resolution E-3929. | * | * | * |
| A05-05-011 SOUTHERN CALIFORNIA EDISON COMPANY, for authorized capital structure, rate of return on common equity, embedded cost of debt and preferred stock, and overall rate of return for utility operations for 2006. | Ratesetting | Ratesetting | YES |
| A05-05-012 SAN DIEGO GAS & ELECTRIC COMPANY, for authority to increase its authorized return on common equity, adjust its authorized capital structure, adjust its authorized embedded costs of debt and preferred stock, increase its overall rate of return, and revise its electric distribution and gas rates accordingly, and for related substantive and procedural relief. | Ratesetting | Ratesetting | YES |
| A05-05-013 COASTAL ALLIANCE ON PLANT EXPANSION, for rehearing of Resolution E-3929 regarding Pacific Gas and Electric Company Advice Letter 2632-E. | * | * | * |
| A05-05-014 CITY OF AMERICAN CANYON, for approval to construct a public at-grade crossing of the California Northern Railroad track at South Napa Junction Road located in the County of Napa, State of California. | Ratesetting | Ratesetting | YES |

*Application for Rehearing of Resolution is assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3153 (5/26/05)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|---------------------|---------|
| A05-05-016 AHMED M. ZARROUG, dba INTERNATIONAL SHUTTLE, EISSA H. MOHAMMAED, dba INTERNATIONAL SHUTTLE, KMEL S. BASHIR, dba INTERNATIONAL SHUTTLE, MOWAFI M. GINAWI, dba INTERNATIONAL SHUTTLE, SHIMELIS A. WOLDEMARIAM, to sell and transfer the business known as International Shuttle and Passenger Stage Certificate PSC-11381 from Eissa H. Mohammed, Ahmed M. Zarroug, Kmel S. Bashir, and Mowafi M. Ginawi, a partnership, to Shimelis A. Woldemariam. | Ratesetting | Ratesetting | NO |
| A05-05-017 SHELL CALIFORNIA PIPELINE COMPANY LLC, for expedited Ex Parte authorization to remove the Bakersfield 14 inch Pipeline from public utility service and to cancel the associated Tariff. | Ratesetting | Ratesetting | NO |
| A05-05-018 VERTEX TELECOM, INC., for a Certificate of Public Convenience and Necessity to provide Resold Local Exchange Services in the State of California. | Ratesetting | Ratesetting | NO |
| A05-05-019 TELRITE CORPORATION (U 6780-C), for a Certificate of Public Convenience and Necessity to offer Resold Local Exchange Telephone Service. | Ratesetting | Ratesetting | NO |
| A05-05-020 CENTRAL COAST SHUTTLE SERVICES, INC., for authority to increase rates between points in Santa Maria, Buelton, Santa Barbara and Ventura and the Los Angeles International Airport; and to establish a Zone of Rate Freedom. | Ratesetting | Ratesetting | NO |